



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,548	10/18/2001	Dongfang Liu	M0656/7070(HCL)	7782

26161 7590 07/29/2003

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

EXAMINER

MCINTOSH III, TRAVISS C

ART UNIT	PAPER NUMBER
----------	--------------

1623

DATE MAILED: 07/29/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/982,548	LIU ET AL.
	Examiner Traviss C McIntosh	Art Unit 1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 May 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-38, 42, 43, 58, 59, 73, 79, 82, 89-91 and 99 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) 1-38, 42, 43, 58, 59, 73, 79, 82, 89-91 and 99 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

The reply filed on May 15, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): applicants did not provide a list of all claims readable upon the elected species. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Canceled claims cannot be “reinstated”, as they no longer exist. Applicant’s representative may resubmit claims in compliance with rule 37 CFR 1.126. Additionally, for applicant’s response to be considered fully responsive, a list of all claims readable upon the elected species must be provided.

This application contains restricted claims directed to the following patentably distinct species of the claimed invention: Selected from diverse methods for producing therapeutic effects from one of the species/subspecies represented by a single alphanumeric designation:

A1: Coagulation disorders contingent upon anti-coagulation activity;

A2: Coagulation disorders contingent upon one of the following patentably distinct species selected from one of the following:

A 2.1: Cardiovascular disease related

A 2.2: Vascular disease related

B: Surgical procedures contingent upon one or more of the following patentably distinct species selected from one of the following:

B1: Cardiac-pulmonary bypass surgery

B2: Coronary revascularization

B3: Orthopedic surgery

B4: Prosthesis replacement

C1: Atherosclerosis

D: Respiratory disorders contingent upon one of the following patentably distinct disorders selected from the following:

D1: Asthma

D2: Emphysema

D3 : ARDS

D4 : Lung reperfusion injury

E1: Cancer or Metastasis

F1: Inflammatory disorder

G1: Allergy

H: Angiogenic disorders contingent upon one of the following patentably distinct disorders selected from the following:

H1: Neovascular eye disorders

H2: Osteoporosis

H3: Psoriasis

H4: Arthritis

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are a plurality of generic patentably distinct species. Response to the species requirement is respectfully submitted.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Composition and Kit claims will be examined which are identified by applicant as claims readable on the alpha-numeric species elected, consonant with this requirement. To be forced to

Art Unit: 1623

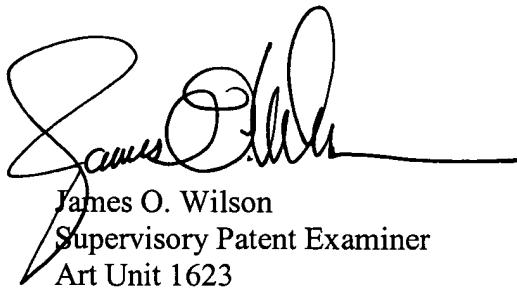
search any more than one of the alpha-numerically described species cited supra would indeed impose an undue burden upon the examiner in charge of this application, specifically in view of the divergent subject matter, as well as the voluminous and divergent classes and subclasses correlative to the various therapeutic effects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C McIntosh whose telephone number is 703-308-9479. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 703-308-4624. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Traviss McIntosh
July 28, 2003



James O. Wilson
Supervisory Patent Examiner
Art Unit 1623